

# Exhibit F

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

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4 FEDERAL HOUSING FINANCE )  
5 AGENCY, etc., )  
6 Plaintiff, )  
7 V. ) 11 CIV. 6201 (DLC)  
8 NOMURA HOLDING AMERICA, )  
9 INC., et al., )  
10 Defendants. )  
11 -----  
12  
13

14 SULLIVAN & CROMWELL LLP  
125 Broad Street  
New York, New York 10004-2498  
15 November 19, 2014  
9:06 A.M.

16  
17  
18 VIDEOTAPED DEPOSITION OF  
JAMES R. BARTH  
19  
20  
21  
22  
23

24 REPORTED BY:  
25 DEBRA SAPIO LYONS, RDR, CRR, CCR, CPE

1 James R. Barth

2 Plaintiff in the Nomura case  
3 contributed to the financial crisis and  
4 recession?

5 MR. NG: Objection, form.

6 A. It's just a positive impact.

7 Q. And you don't have any  
8 opinion as to the specific positive  
9 impact?

10 A. No, I wasn't asked to, nor  
11 was it necessary in what I -- in terms  
12 of what I was asked to do in rebutting  
13 the Vandell Report.

14 Q. Okay.

15 MR. CHOKSI: Okay. Take a  
16 quick break.

17 THE VIDEO TECHNICIAN: Off  
18 the record 9:53 a.m.

19 (A recess is held.)

20 (Mr. Curtis is present  
21 telephonically.)

22 THE VIDEO TECHNICIAN: Going  
23 back on the record 10:05 a.m. This  
24 is the beginning of Disk 2 in the  
25 deposition of James Barth.

1 James R. Barth

2 BY MR. CHOKSI:

3 Q. Hi, Dr. Barth.

4 A. Hi.

5 Q. Let's go back to Paragraph 8  
6 of your report.

7 In this paragraph you define  
8 alleged underwriting defects, is that  
9 correct, as a defined term?

10 A. Yes, I do mention the  
11 underwriting defects.

12 Q. Okay. And do you define  
13 alleged underwriting defects as the  
14 types of defects, misrepresentations  
15 and omissions that FHFA allege?

16 A. I'm sorry. Could you repeat  
17 that question?

18 Q. In Paragraph 8 do you define  
19 the term "alleged underwriting defects"  
20 as the types of underwriting defects,  
21 misrepresentations and omissions that  
22 FHFA allege?

23 A. Yes.

24 Q. Okay. When you say the  
25 types of defects, misrepresentations

1 James R. Barth

2 and omissions that FHFA allege, are you  
3 referring to the specific defects,  
4 misrepresentations and omissions that  
5 FHFA allege in the Nomura action only?

6 A. What I am referring to here  
7 is there's other evidence of other  
8 misrepresentations and omissions  
9 associated with the loans underlying  
10 private label securities in addition to  
11 those alleged in this particular case  
12 by FHFA.

13 Q. So when you refer to alleged  
14 underwriting defects in your report,  
15 you are not referring to only the  
16 specific underwriting defects,  
17 misrepresentations and omissions that  
18 FHFA alleges in the Nomura action;  
19 correct?

20 A. I'm referring specifically  
21 to those FHFA alleges and saying there  
22 are other similar misrepresentations,  
23 omissions that have been identified in  
24 other studies.

25 Q. So I take it that you are

1 James R. Barth

2 not referring to only the underwriting  
3 defects, misrepresentations and  
4 omissions that FHFA alleges with  
5 regards to the Nomura securitizations  
6 at issue --

7 MR. NG: Objection, form.

8 Q. -- correct?

9 A. I think that's a relatively  
10 fair way -- fair way to restate it,  
11 that I'm talking about the specific  
12 allegations and then similar types of  
13 misrepresentations and omissions  
14 associated either with -- with other  
15 private label securitizations.

16 Q. And those similar type of  
17 misrepresentations and omissions  
18 associated with other private label  
19 securitizations involve loans that were  
20 not bought or securitized by Nomura;  
21 correct?

22 A. That's what I do not know.

23 Q. Do they involve the whole  
24 universe of loans in private label  
25 securitizations?

1 James R. Barth

2 A. I don't know for sure that I  
3 could say they involve the whole  
4 universe, but a subset certainly of the  
5 universe.

6 Q. How big of a subset of the  
7 universe?

8 A. My recollection, and of  
9 course one could look at the actual  
10 reports, but my recollection is there  
11 are millions of loans.

12 Q. When you say one can look at  
13 the actual reports, what reports are  
14 you referring to?

15 A. The reports that I cite  
16 in -- in my report.

17 Q. Are you referring --

18 A. Or the studies that I cite  
19 in my report.

20 Q. Are you referring to the  
21 reports you cite at Paragraph 15 in  
22 Footnote 28 and 29? Take your time.

23 A. I'm sorry. Which page were  
24 you referring to?

25 Q. I'm -- Paragraph 15 on Page

1 James R. Barth

2 10 and Page 11, and the Footnotes 28  
3 and 29 you cite about four reports.  
4 Are those the reports you're referring  
5 to?

6 A. Yes, I was referring  
7 specifically to Footnote 29 --

8 Q. Okay.

9 A. -- on Page 11.

10 Q. All right. And do you  
11 recall how many loans, for instance,  
12 the first study you cite there from  
13 John M. Griffin and Gonzalo Maturana  
14 considered in their analysis?

15 A. I don't recall sitting here  
16 the exact number.

17 Q. Okay.

18 MR. CHOKSI: Would mark as  
19 our next exhibit 60301.

20 THE WITNESS: Sorry.

21 (Exhibit 60301, article  
22 entitled "Who Facilitated  
23 Misreporting in Securitized Loans?"  
24 by John M. Griffin and Gonzalo  
25 Maturana, is marked for



1 James R. Barth

2 identification.)

3 MR. CHOKSI: A article  
4 entitled "Who Facilitated  
5 Misreporting in Securitized Loans?"  
6 by John M. Griffin and Gonzalo  
7 Maturana.

8 BY MR. CHOKSI:

9 Q. Is this the Griffin and  
10 Maturana report that you cite in  
11 Footnote 29?

12 A. Yes. Yes, it is.

13 Q. Okay. And if you turn to  
14 Page 9, please, and this section is  
15 entitled "Data and Measures." And  
16 about five sentences down I'm going to  
17 read, quote, Lewtan's ABSNet Loan --  
18 sorry. Let me start over.

19 (As read): "Lewtan's ABSNet  
20 Loan contains information about more  
21 than 18 million residential loans that  
22 were issued either for the purchase or  
23 refinancing of properties between  
24 January 20 -- January 2002 and December  
25 2011." I'm going to end the sentence

1 James R. Barth

2 there.

3 Does that refresh your  
4 recollection that Mr. Griffin and  
5 Maturana used about 18 million  
6 residential loans in their data set?

7 A. This is -- would be the  
8 starting point.

9 Q. Okay. And by starting point  
10 you mean they would sample from these  
11 18 million loans?

12 A. Well, they rely upon these  
13 and then they had another data set that  
14 they used to sort of compare these  
15 particular loans to -- to another data  
16 set.

17 Q. Okay. And the other data  
18 set would be using the same amount of  
19 loans about?

20 A. I don't recall the exact  
21 number of loans, but they tried to  
22 match them up to do a comparison.

23 Q. Okay. And you would agree  
24 with me, wouldn't you, that if you're  
25 using 18 million loans or something

1 James R. Barth

2 similar, that that would necessarily  
3 include loans not included in -- not  
4 backing the at-issue certificates in  
5 the Nomura action; right?

6 MR. NG: Objection, form.

7 A. It -- it could be, but I  
8 don't know.

9 Q. I understand that it could  
10 be, but it also necessarily includes  
11 loans that were not included in the  
12 Nomura securitization?

13 A. I would assume that's the  
14 case.

15 Q. If I represent to you that  
16 there are about 15,000 loans backing  
17 the Nomura securitizations at issue,  
18 would you agree with me that if you  
19 have 18 million loans in your data set,  
20 you're including loans not backing the  
21 Nomura securitizations at issue?

22 A. Yes, of course, I would  
23 agree with you --

24 Q. Okay.

25 A. -- on that particular point.

1 James R. Barth

2 Q. Okay. The next article you  
3 cite is Tomasz Piskorski, Amit Seru and  
4 James Witkin; is that correct?

5 A. Well, I'm not sure that the  
6 pronunciation is correct --

7 Q. Yeah.

8 A. -- but, yes, that's --  
9 that's the article.

10 MR. CHOKSI: I will mark as  
11 our next exhibit which will be  
12 60302 an article by Tomasz  
13 Piskorski, Amit Seru and James  
14 Witkin dated February 2013.

15 (Exhibit 60302, article by  
16 Tomasz Piskorski, Amit Seru and  
17 James Witkin dated February 2013, is  
18 marked for identification.)

19 BY MR. CHOKSI:

20 Q. Does this appear to be the  
21 article you're citing in Footnote 29?

22 A. Yes.

23 Q. Okay. And if you turn to  
24 Page 10, please --

25 A. (The Witness Complies With

1 James R. Barth

2 the Request of Counsel.)

3 Q. -- under the Section IV  
4 "Constructing Measures of Loan  
5 Misrepresentations," the last sentence  
6 in the first paragraph, I'm going to  
7 read it for the record, "This gives us  
8 a sample of 1,563,223 loans."

9 Do you agree that this is  
10 the sample that these authors used in  
11 their study that you cite in  
12 Footnote 29?

13 A. Yeah, I -- I agree that  
14 that's indeed what this paper says as  
15 you read it.

16 Q. And, again, do you agree  
17 that this necess -- that necessarily if  
18 they used 1,563,223 loans, that means  
19 they considered loans that were not  
20 part of the Nomura securitizations at  
21 issue?

22 A. Yes, I think that's a fair  
23 conclusion.

24 Q. Okay. Thank you.

25 So let's go back to your

1 James R. Barth

2 report. You can put those aside for  
3 now.

4 So going back to your report  
5 on Paragraph 8 which is on Page 6 --  
6 I'm sorry, Page 5.

7 A. Page 4?

8 Q. Page 4. When you refer to  
9 alleged underwriting defects, you were  
10 referring to misrepresentations and  
11 omissions and defects of the types FHFA  
12 alleges on loans cited in these  
13 studies; correct?

14 A. You're going to have to --

15 Q. Yeah.

16 A. -- repeat your question --

17 Q. Yeah.

18 A. -- unfortunately.

19 Q. If I understand your  
20 testimony correctly from before, when  
21 you were defining alleged underwriting  
22 defects in Paragraph 8 and when you use  
23 it in your report, you are referring to  
24 defects, misrepresentations and  
25 omissions of the type FHFA alleges on

1 James R. Barth

2 loans considered in the reports in  
3 Footnote 29 that we just looked at;  
4 correct?

5 MR. NG: Objection, form.

6 A. What this is saying is that  
7 I'm referring specifically to the  
8 underwriting defects and the  
9 misrepresentation, omissions that are  
10 being discussed in this particular  
11 case, but I'm also pointing out that  
12 there are other types of  
13 misrepresentations and omissions that  
14 have been identified in other studies  
15 and they are consistent basically with  
16 the opinions in my case.

17 Q. So you define alleged  
18 underwriting defects in Paragraph 8 as  
19 those defects, misrepresentations,  
20 omissions of the type that FHFA allege.

21 Does that mean that they are  
22 the exact defects, misrepresentations  
23 and omissions that FHFA alleges in  
24 Nomura?

25 A. No. The word "types" is